

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James Paul Aery,

Civ. No. 20-2154 (ECT/BRT)

Plaintiff,

v.

ORDER

Sgt. Collins, Official and Individual
Capacity,

Defendant.

IT IS HEREBY ORDERED that:

1. The application to proceed *in forma pauperis* of James Paul Aery (Doc. No. 2) is GRANTED.

2. Aery must submit a properly completed Marshal Service Form (Form USM-285) for the defendant. If Aery does not complete and return the Marshal Service Form within 30 days of this order, it will be recommended that this matter be dismissed without prejudice for failure to prosecute. A Marshal Service Form will be provided to Aery by the Court.

3. After the return of the completed Marshal Service Forms, the Clerk of Court is directed to seek waiver of service from defendant Collins in her personal capacity, consistent with Rule 4(d) of the Federal Rules of Civil Procedure.

4. If a defendant sued in his or her personal capacity fails without good cause to sign and return a waiver within 30 days of the date that the waiver is mailed, the Court

will impose upon that defendant the expenses later incurred in effecting service of process. Absent a showing of good cause, reimbursement of the costs of service is mandatory and will be imposed in all cases in which a defendant does not sign and return a waiver of service form. *See* Fed. R. Civ. P. 4(d)(2).

5. The U.S. Marshals Service is directed to effect service of process on defendant Collins in her official capacity as an agent of the State of Minnesota consistent with Rule 4(j) of the Federal Rules of Civil Procedure.

6. Aery must pay the unpaid balance (\$350.00) of the statutory filing fee for this action in the manner prescribed by 28 U.S.C. § 1915(b)(2), and the Clerk of Court shall provide notice of this requirement to the authorities at the institution where Aery is confined. The Court finds that Aery has no assets and no means by which to pay an initial partial filing fee, *see* 28 U.S.C. § 1915(b), and that requirement will therefore be waived.

Dated: October 23, 2020

s/ Becky R. Thorson
BECKY R. THORSON
United States Magistrate Judge